



BILLING CODE 6717-01-P
DEPARTMENT OF ENERGY
Federal Energy Regulatory Commission

Order On Intent To Revoke Market-Based Rate Authority

Before Commissioners: Kevin J. McIntyre, Chairman;
Cheryl A. LaFleur, Neil Chatterjee,
Robert F. Powelson, and Richard Glick.

Electric Quarterly Reports	Docket Nos. ER02-2001-020
Fibrominn LLC	ER12-1161-002
BluCo Energy LLC	ER12-1279-000
Alternate Power Source Inc.,	ER11-4550-000
Atlantic Coast Energy Corporation	ER13-734-000

1. Section 205 of the Federal Power Act (FPA), 16 U.S.C. 824d (2012), and 18 CFR Part 35 (2017), require, among other things, that all rates, terms, and conditions for jurisdictional services be filed with the Commission. In Order No. 2001, the Commission revised its public utility filing requirements and established a requirement for public utilities, including power marketers, to file Electric Quarterly Reports.¹

2. The Commission requires sellers with market-based rate authorization to file Electric Quarterly Reports summarizing contractual and transaction information related

¹ *Revised Public Utility Filing Requirements*, Order No. 2001, FERC Stats. & Regs. ¶ 31,127, *reh'g denied*, Order No. 2001-A, 100 FERC ¶ 61,074, *reh'g denied*, Order No. 2001-B, 100 FERC ¶ 61,342, *order directing filing*, Order No. 2001-C, 101 FERC ¶ 61,314 (2002), *order directing filing*, Order No. 2001-D, 102 FERC ¶ 61,334, *order refining filing requirements*, Order No. 2001-E, 105 FERC ¶ 61,352 (2003), *order on clarification*, Order No. 2001-F, 106 FERC ¶ 61,060 (2004), *order revising filing requirements*, Order No. 2001-G, 120 FERC ¶ 61,270, *order on reh'g and clarification*, Order No. 2001-H, 121 FERC ¶ 61,289 (2007), *order revising filing requirements*, Order No. 2001-I, FERC Stats. & Regs. ¶ 31,282 (2008). *See also Filing Requirements for Electric Utility Service Agreements*, 155 FERC ¶ 61,280, *order on reh'g and clarification*, 157 FERC ¶ 61,180 (2016) (clarifying Electric Quarterly Reports reporting requirements and updating Data Dictionary).

to their market-based power sales as a condition for retaining that authorization.² Commission staff's review of the Electric Quarterly Reports indicates that the following four public utilities with market-based rate authorization have failed to file their Electric Quarterly Reports: Fibrominn LLC, BluCo Energy LLC, Alternate Power Source Inc., and Atlantic Coast Energy Corporation. This order notifies these public utilities that their market-based rate authorizations will be revoked unless they comply with the Commission's requirements within 15 days of the date of issuance of this order.

3. In Order No. 2001, the Commission stated that:

[i]f a public utility fails to file a[n] Electric Quarterly Report (without an appropriate request for extension), or fails to report an agreement in a report, that public utility may forfeit its market-based rate authority and may be required to file a new application for market-based rate authority if it wishes to resume making sales at market-based rates.^[3]

4. The Commission further stated that:

[o]nce this rule becomes effective, the requirement to comply with this rule will supersede the conditions in public utilities' market-based rate authorizations, and failure to comply with the requirements of this rule will subject public utilities to the same consequences they would face for not satisfying the conditions in their rate authorizations, including possible revocation of their authority to make wholesale power sales at market-based rates.^[4]

² See *Refinements to Policies and Procedures for Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities*, Order No. 816, FERC Stats. & Regs. ¶ 31,374 (2015), *order on reh'g*, Order No. 816-A, 155 FERC ¶ 61,188 (2016); *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities*, Order No. 697, FERC Stats. & Regs. ¶ 31,252, at P 3, *clarified*, 121 FERC ¶ 61,260 (2007), *order on reh'g*, Order No. 697-A, FERC Stats. & Regs. ¶ 31,268, *clarified*, 124 FERC ¶ 61,055, *order on reh'g*, Order No. 697-B, FERC Stats. & Regs. ¶ 31,285 (2008), *order on reh'g*, Order No. 697-C, FERC Stats. & Regs. ¶ 31,291 (2009), *order on reh'g*, Order No. 697-D, FERC Stats. & Regs. ¶ 31,305 (2010), *aff'd sub nom. Mont. Consumer Counsel v. FERC*, 659 F.3d 910 (9th Cir. 2011), *cert. denied*, 133 S. Ct. 26 (2012).

³ Order No. 2001, FERC Stats. & Regs. ¶ 31,127 at P 222.

⁴ *Id.* P 223.

5. Pursuant to these requirements, the Commission has revoked the market-based rate tariffs of market-based rate sellers that failed to submit their Electric Quarterly Reports.⁵

6. Sellers must file Electric Quarterly Reports consistent with the procedures set forth in Order Nos. 2001, 768,⁶ and 770.⁷ The exact filing dates for Electric Quarterly Reports are prescribed in 18 CFR 35.10b (2017). As noted above, Commission staff's review of the Electric Quarterly Reports for the period up to the third quarter of 2017 identified four public utilities with market-based rate authorization that failed to file Electric Quarterly Reports. Commission staff contacted or attempted to contact these entities to remind them of their regulatory obligations. Despite these reminders, the public utilities listed in the caption of this order have not met these obligations. Accordingly, this order notifies these public utilities that their market-based rate authorizations will be revoked unless they comply with the Commission's requirements within 15 days of the issuance of this order.

7. In the event that any of the above-captioned market-based rate sellers has already filed its Electric Quarterly Reports in compliance with the Commission's requirements, its inclusion herein is inadvertent. Such market-based rate seller is directed, within 15 days of the date of issuance of this order, to make a filing with the Commission identifying itself and providing details about its prior filings that establish that it complied with the Commission's Electric Quarterly Report filing requirements.

8. If any of the above-captioned market-based rate sellers does not wish to continue having market-based rate authority, it may file a notice of cancellation with the Commission pursuant to section 205 of the FPA to cancel its market-based rate tariff.

⁵ See, e.g., *Electric Quarterly Reports*, 82 FR 60,976 (Dec. 26, 2017); *Electric Quarterly Reports*, 80 FR 58,243 (Sep. 28, 2015); *Electric Quarterly Reports*, 79 Fed. Reg. 65,651 (Nov. 5, 2014).

⁶ *Electricity Market Transparency Provisions of Section 220 of the Federal Power Act*, Order No. 768, FERC Stats. & Regs. ¶ 31,336 (2012), *order on reh'g*, Order No. 768-A, 143 FERC ¶ 61,054 (2013), *order on reh'g*, Order No. 768-B, 150 FERC ¶ 61,075 (2015).

⁷ *Revisions to Electric Quarterly Report Filing Process*, Order No. 770, FERC Stats. & Regs. ¶ 31,338 (2012).

The Commission orders:

(A) Within 15 days of the date of issuance of this order, each public utility listed in the caption of this order shall file with the Commission all delinquent Electric Quarterly Reports. If a public utility subject to this order fails to make the filings required in this order, the Commission will revoke that public utility's market-based rate authorization and will terminate its electric market-based rate tariff. The Secretary is hereby directed, upon expiration of the filing deadline in this order, to promptly issue a notice, effective on the date of issuance, listing the public utilities whose tariffs have been revoked for failure to comply with the requirements of this order and the Commission's Electric Quarterly Report filing requirements.

(B) The Secretary is hereby directed to publish this order in the *Federal Register*.

By the Commission.

Issued: March 19, 2018.

Kimberly D. Bose,
Secretary.

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